

REMARKS/ARGUMENTS

By the foregoing amendment, claims 1, 8, 17, 19 and 20 have been cancelled. Claims 9, 10, 12, 14 and 15, indicated allowable, have been rewritten in independent form. Certain of the dependent claims have been amended to depend from the rewritten independent claims. Claims 25 and 26 have been added.

Responding to the requirement for restriction, applicant elects for examination the claims of Group I directed to the ballistic protection apparatus.

The Examiner has objected to claim 1 (now cancelled but relevant portions being included in rewritten independent claims) on the basis of insufficient structure to perform the recited function. Particularly, the Examiner objects to the language requiring a support on the shield body configured to enable an individual to simultaneously grasp the long gun and the support by one hand. The Examiner appears to be equating breadth with indefiniteness. The requirement of 37 CFR § 1.75(a) of particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention is essentially the same requirement as in 35 U.S.C. § 112, second paragraph. The Examiner would have applicant limit the device for performing that function to the specific device disclosed in the specification. The requirement of 35 U.S.C. 112, second paragraph, however, does not require such limiting amendments to the claim. The term "distinct" in 35 U.S.C. 112, second paragraph means simply that the claim must have a clear and definite meaning when construed in light of the specification. The real question is whether a person of skill in the art would understand the language of the claims when read in light of the specification. Upon a review of the specification, a person of skill in this art would know what is being claimed, i.e., a support which

enables the individual to grasp the long gun and the support with one hand. There doesn't appear to be anything confusing concerning that limitation, and the specification completely supports an embodiment or aspect of that claim limitation. Moreover, there is nothing intrinsically wrong with defining something by what it does rather than what it is. See *In re Allman*, 210 USPQ 609, 611 (CCPA 1981). Applicant therefore submits that the claim in this aspect does distinctly claim and point out applicant's invention as required.

The Examiner has rejected claims 21-24 under 35 U.S.C. 112, second paragraph notwithstanding that those claims are directed to a non-elected invention. In any event, applicant has cancelled those claims and reserves the right to present such claims in a divisional application.

All of the independent claims now presented with the exception of claim 25 have previously indicated allowable, and therefore formal indication of allowance of those claims and claims dependent therefrom is respectfully requested. With respect to claim 24, applicant submits that this claim clearly patentably distinguishes from the references applied in this first Action. Applicant notes that claim 25 requires among other things various features including the overlapping of the opposite side margins of the central section with the inner side margins of the side sections, the fasteners being formed of a flexible material and spaced one from the other between the upper and lower margins of the shield body and along one of the front and back sides of the shield body. Additionally, claim 25 requires the laterally extending side sections to each have a compound curve including a convex front surface adjacent the central section and a concave front surface adjacent a distal side edge of the side sections.

Russell, U.S. Patent No. 2,020,702, provides a protective shield which is foldable about horizontal hinge lines. In contrast, the present shield body as claimed requires a central section and two side sections with fasteners connecting those sections to one another. The claimed central sections and side sections have meaning. In Russell, the sections are one over the other whereas in the claimed arrangement, the side sections are lateral to the central section. Russell, moreover, does not include flexible fasteners or a particular configuration of any side sections, i.e., a compound curve or the like.

Cohen, U.S. Patent No. 6,691,601 (formerly Publication No. US2002/0092416A1), similarly does not have side sections with a compound curve coupled to a central section by flexible fasteners. Moreover, Cohen does not have overlapping margins as claimed.

Young, U.S. Patent No. 2,215,204 does not provide a sectional shield with side sections having compound curves or side sections flexibly fastened to a central section.

British Patent No. 124353 simply discloses two arcuate plates pivotally coupled to one another at an apex. Claim 25 clearly distinguishes by requiring a central section, two lateral sections as well as the specific compound curves of the lateral sections as well as other features in the context of claim 25.

Dependent claim 26 requires the scalloped edges. Applicant submits this feature is not disclosed in the art applied by the Examiner. The remaining claims are dependent on claim 25 and are believed allowable therewith.

ALFRED J. BAKER
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Accordingly, reconsideration and allowance of the claims pending in the application is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Richard Besha
Richard G. Besha
Reg. No. 22,770

RGB:ljb
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100